

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN STANLEY (STAN) FISHER**, on January 27,
2003 at 9:00 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Rep. Stanley (Stan) Fisher, Chairman (R)
Sen. Corey Stapleton, Vice Chairman (R)
Sen. Keith Bales (R)
Rep. Tim Callahan (D)
Rep. Carol C. Juneau (D)
Sen. Trudi Schmidt (D)

Members Excused: Rep. Dave Lewis (R)

Members Absent: None.

Staff Present: Marian Collins, Committee Secretary
Christi Moyer, OBPP
Lorene Thorson, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the beginning of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: Department of Justice Hearing,
Law Enforcement Academy - 1/23/2003
Executive Action: None

{Tape: 1; Side: A; Approx. Time Counter: 0.1 - 30}

Mike McGrath, Attorney General, State of Montana, presented the Committee with details concerning the Department of Justice (DOJ) involvement in solving the 2001 murder of 17-year-old Steve Berry. DOJ was asked to assist local law enforcement officials with the investigation. Of the ten divisions within the DOJ, the only two Divisions that weren't involved in the Berry case were the Motor Vehicle Division and the Gambling Control Division.

DOJ has identified approximately \$4 million in extra money they can make available to the general fund. Most of that is as a result of fee bills through the Motor Vehicle Division. DOJ has proposed a delay in reissuing license plates. The Gambling Control Division also has a bill to increase fees on gaming machines. DOJ is asking to impose a surcharge on criminal convictions which will raise \$2.1 million to pay for the funding of the Montana Law Enforcement Academy.

One request of the Attorney General is for an FTE for a Cyber Crime Unit. There are many computer-related crimes, and local law enforcement agencies frequently don't have the technology available to deal with those crimes. Another Executive Office request is for an additional technician at the Crime Lab to deal with latent prints. Matching funds for the technician were requested from the federal government.

Mr. McGrath noted one additional issue DOJ needs to address with this Committee is funding County Attorney salaries. County Attorneys in large counties are paid at the same pay level as small counties. A Montana statute provides that the State pay 50% of the County Attorney's salary. A few sessions ago, the Legislature passed a bill creating the County Compensation Committee. This Committee created a system to avoid having to deal with County officials' pay every session. It would also allow local communities to make decisions as to an appropriate level of pay. Last legislature, HB 2 provided that the State half of the County Attorney salary would be capped at 2.2% per year. The County Compensation Committee met and raised County Attorney salaries in some counties as much as 10%. Currently, the Department of Justice hasn't paid the 50% of the new salaries; it's only paid the 2.2%. A combination of all the County Attorney raises amounts to approximately a \$60,000 shortfall in FY 2003. Shortfalls for FY 2004 and 2005 amount to approximately \$490,000.

SEN. BALES asked if the State is mandated to match what the County pays. **Mr. McGrath** stated that DOJ's interpretation is that the State is limited to State Appropriation amounts, and that County Commissioners do not have the authority to appropriate State funds.

{Tape: 1; Side: B; Approx. Time Counter: 2.6 - 31}

{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 20}

Mike Batista, Administrator, Division of Criminal Investigation (DCI), stated that this Division exists to support local law enforcement. The Division offers training at the Academy as well as throughout the State. DCI is a coordination agency for programs that need State involvement benefitting local agencies and the public, such as the Sex and Violent Offender Registry (SVOR). Names of offenders are collected and posted on the web site for local agencies and the public. Programs such as the Amber Alert Program, which will notify the public when a child is abducted, use the Emergency Alert System as well as other communication to get information out to the media so that the public can be involved. **Mr. Batista** presented a chart to the Committee identifying the four Bureaus within the Division, and gave an overview of each Bureau.

Within the Investigations Bureau, fraud work has been greatly impacted by DCI. Through welfare fraud, Workers' Compensation fraud, and Medicaid fraud, DCI has saved Montana millions of dollars by identifying and prosecuting fraud. Since 1996 when the Medicaid Fraud Control Unit was established, DCI has recovered more than \$2.3 million in benefits that have been obtained illegally, and worked 318 cases of patient abuse, elder exploitation, and Medicaid fraud.

Currently, there are more than 2,500 offenders listed on the SVOR website. The most dangerous people that are listed on the Registry are listed "Sexual Predators" which means that they are most likely to offend again. Those people will have photographs on the website. DCI maintains the central repository for all offenders in Montana. Local agencies will register an offender in local jurisdiction. **REP. JUNEAU** asked if there was a reporting process if the sexual offender is a school teacher. **Mr. Batista** stated that occupation is not a part of the registration information currently collected.

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Within the Narcotics Bureau, 90% of the cases currently being handled by DCI are methamphetamine related. That percentage is up from 40% four years ago. When effective prevention, enforcement, and treatment occur, the percentages will decline. **Mr. Batista** stated that out-of-state traffickers are bringing the majority of drugs into Montana for distribution.

Mr. Batista stated that the Fire Prevention & Investigation Bureau has received the most budget cuts. The Bureau provides assistance to local fire departments with fire investigation and building inspections. Three FTE, two fire marshals and one administrative support person have been cut. Because of these cuts, the general funding for a grant writer was lost. However, federal funds were located to continue funding for the grant writer.

Providing well-trained officers is the most important work of the Law Enforcement Academy Bureau. The Academy is working with Senator Burns to find funding to build a state-of-the-art classroom for trainees. Plans are to offer distance training, hold law enforcement conferences, and accommodate larger numbers of students wanting to attend the Academy. There is currently a backlog of individuals wanting to attend the Academy. The Academy also assists local agencies in setting up regional training.

EXHIBIT (jch17a01)

{Tape: 2; Side: A; Approx. Time Counter: 21.5 - 25.1}

SEN. STAPLETON suggested eliminating the Fire Prevention & Investigation Bureau, and moving two or three investigators into the Investigations Bureau. **Mr. Batista** stated that the current staff not only does investigative work but also inspections and public education. Approximately 90% of the fire departments in Montana are volunteer, unpaid departments, which is part of the reason the Bureau was created. Many volunteer fire departments don't have the time, training, or experience in either fire investigation or inspections.

{Tape: 2; Side: A; Approx. Time Counter: 28.3 - 28.5}

{Tape: 2; Side: B; Approx. Time Counter: 4.1 - 18}

Mr. Batista directed the Committee to page D-11 of the Legislative Budget Analysis 2005 Biennium. The DCI is asking to retain a computer crime investigator who provides assistance to local agencies. The federal funding for this position ends in June 2003. At the present time, there are only two investigators in the State of Montana investigating computer crime.

Knowledgeable, trained, and properly equipped investigators are necessary to investigate important issues such as child pornography cases, financial fraud cases, and identity theft. Originally three FTE were requested for a total of \$400,000, but now only one FTE is requested for \$87,500.

Mr. Batista stated that none of the present-law adjustment proposals have an adverse impact on the general fund. DCI is requesting: 1) two additional public safety communicator courses for dispatchers trained at the Academy. The revenue collected will offset costs associated with providing these additional courses; 2) two custodial staff to work full-time for the Academy; 3) one administrative support position to assist the Eastern Montana Drug Task Force; 4) one additional criminal analyst to provide analytical and intelligence assistance to local drug task forces in Montana; and 5) one criminal investigator to deal with homeland security.

Mr. Batista presented copies of HB 124 to the Committee, and informed them that this bill will switch funding for the Academy from general fund to state special funding.

EXHIBIT (jch17a02)

{Tape: 2; Side: B; Approx. Time Counter: 18.2 - 20}

Larry Fasbender, Deputy Director, Department of Justice, stated the state special funding would come from fees assessed on fines, forfeitures and bail collected in courts of limited jurisdiction on such things as traffic DUI and other minor offenses. The \$10 generated from those fines would generate sufficient revenue to cover the operating costs of the Law Enforcement Academy.

Mr. Fasbender stated that, under current law, in order to use state special revenue, agencies must show that the beneficiaries are the people who pay these fees. The DOJ feels the additional fees will discourage individuals from continuing to commit crimes. It also lowers the cost the State is incurring because these people are committing those crimes. Fifty percent of the fines go into the general fund and are repaid to agencies.

CHAIRMAN FISHER requested clarification on the Department's plan to eliminate three general fund FTE, and request one general FTE.

{Tape: 2; Side: B; Approx. Time Counter: 23.3 - 24}

Lorene Thorson, Legislative Staff, explained that DOJ is moving four FTE off the general fund. Three of these positions will be gone permanently, and one will remain, but it will be funded by federal funds.

Mr. Batista informed the Committee that funding from the federal government has allowed local drug task forces around Montana to consolidate operations to fight the methamphetamine problem. DOJ is targeting public awareness education and early intervention.

{Tape: 3; Side: A; Approx. Time Counter: 8.8 - 10.2}

Mr. Fasbender stated that the Agency Legal Services (ALS) was established to handle all litigation for various agencies in state government. ALS is funded by proprietary funds charged to other agencies for services.

Doug Booker, Centralized Services, informed the Committee that the rates charged by ALS for services were established by the Budget Office. The rate increases currently requested are for a rent increase and an anticipated pay plan increase.

{Tape: 3; Side: A; Approx. Time Counter: 13.5 - 26}

Galen Hollenbaugh, Deputy Chief of Staff, Legal Services Division (LSD), stated that LSD is divided into five bureaus, and has an annual budget of approximately \$4.1 million. **Mr. Hollenbaugh** presented a handout, and gave an overview of duties of each bureau. The base budget of the Division is primarily general fund, but there are several special revenue accounts and some federal funding that support the Division.

Mr. Hollenbaugh reviewed the decision packages starting on page D-20 of the Legislative Budget Analysis 2005. At this time, the Department of Justice has withdrawn the request for DP 102. If federal funding becomes available, the Department would like to pursue approval of funding for this FTE at a later date. The \$400,000 requested in DP 103 is a biennial request used to hire expert witnesses and cover other costs such as court reporters. If the money is not used for those purposes, it is not spent somewhere else.

EXHIBIT (jch17a03)

{Tape: 3; Side: A; Approx. Time Counter: 27 - 27.4}

Ms. Thorson stated that LFD has suggested making the \$400,000 a biennial restricted appropriation, which means the Department can use it either year. It will be listed as a line item in House Bill 2.

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ADJOURNMENT

Adjournment: 11:40 A.M.

REP. STANLEY (STAN) FISHER, Chairman

MARIAN COLLINS, Secretary

SF/MC

EXHIBIT (jch17aad)